

03500.014646

PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

TAKEHIKO NAKAI

Application No.: 09/626,738

Filed: July 26, 2000

For: DIFFRACTION OPTICAL  
ELEMENT

)  
: Examiner: A. Amari  
)  
: Group Art Unit: 2872  
)  
:  
:  
:  
: January 31, 2002

Commissioner for Patents  
Washington, D.C. 20231

#8  
Election  
J. McMillan  
2/4/02  
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RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Sir:

In response to the Official Action dated December 31, 2001, the Examiner is respectfully requested to consider the following election and remarks.

In the Official Action, the Examiner entered an election of species requirement. Specifically, the Examiner identified the following six species:

<u>Species</u>	<u>Claims(s)</u>
I.	Claims 1, 2, 8-17/1 and 8-17/2;
II.	Claims 3 and 8-17/3;
III.	Claims 4 and 8-17/4;
IV.	Claims 5 and 8-17/5;
V.	Claims 6 and 8-17/6; and

VI.

Claims 7 and 8-17/7.

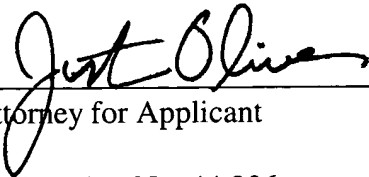
Applicant respectfully traverses the election requirement. Without conceding the Examiner's characterization of the claimed invention, Applicant believes that a thorough search of the relevant art for one species will require substantial consideration of the art relevant to the other species.

In addition, the making of an election of species requirement is not mandatory in all instances where it is possible to do so. Rather, the Examiner may use discretion and choose not to make an election of species requirement where circumstances warrant. It is believed that such is the case in the subject application. Therefore, Applicant requests, under 37 C.F.R. § 1.143, that the Examiner reconsider and withdraw the requirement set forth in the above-noted Office Action.

Nevertheless, Applicant provisionally elects, with traverse, to prosecute the subject matter of Species 6 (Claims 7 and 8-17/7) in the present application. In addition, attached is a Preliminary Amendment amending the elected claims to define even more clearly Applicant's invention.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

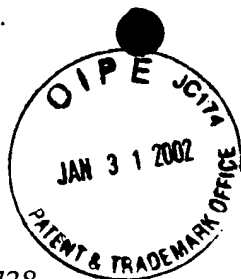
Respectfully submitted,

  
\_\_\_\_\_  
Attorney for Applicant  
Registration No. 44,986

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Date: January 31, 2002

THE COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

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Sir:

Transmitted herewith is a Preliminary Amendment in the above-identified application.

☒ No additional fee is required.

The fee has been calculated as shown below

CLAIMS AS AMENDED						
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL CLAIMS	17	MINUS	77	= 0	x \$9 \$18	0.00
INDEP. CLAIMS	7	MINUS	7	= 0	x \$42 \$84	0.00
Fee for Multiple Dependent claims \$140°/\$280						
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT---						0.00

☐ °Verified Statement claiming small entity status is enclosed, if not filed previously.

☐ A check in the amount of \$\_\_\_\_ is enclosed.

☐ Charge \$\_\_\_\_ to Deposit Account No. 06-1205. A duplicate copy of this sheet is enclosed.

☒ Any prior general authorization to charge an issue fee under 37 C.F.R. 1.18 to Deposit Account No. 06-1205 is hereby revoked. The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. 1.16 and 1.17 which may be required during the entire pendency of this application, or to credit any overpayment, to Deposit Account No. 06-1205. A duplicate copy of this paper is enclosed.

☐ A check in the amount of \$\_\_\_\_ to cover the fee for a \_\_\_\_ month extension is enclosed.

☐ A check in the amount of \$\_\_\_\_ to cover the Information Disclosure Statement fee is enclosed.

☒ Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

  
\_\_\_\_\_  
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